

December 18, 2019

VIA ECF

The Honorable Becky R. Thorson
United States Magistrate Judge
United States District Court
646 Federal Building
316 North Robert Street
St. Paul, MN 55101

Re: *Insignia Systems, Inc. v. News Corporation, et al.*
Case No. 19-cv-01820 (MJD/BRT)

Dear Magistrate Judge Thorson:

Defendants respectfully seek leave to supplement the record on the pending Motion for Judgment on the Pleadings (Doc. No. 46), to be heard January 14, 2020, with a copy of the settlement agreement and release in the action *Valassis v. News America* dated February 4, 2010. A redacted copy of the settlement agreement, which was previously filed as Ex. 54 (Doc. No. 244-5) in *Valassis v. News Corp., et al.*, Court File No. 17-cv-07378-PKC (S.D.N.Y.), is attached to this letter as Ex. A.

Plaintiff Insignia, on pages 16-17 of its reply memorandum in support of its cross-motion (Dec. 16, 2019, Doc. No. 71), cites a February 21, 2019 ruling that Insignia represents construed that settlement agreement and release to allow pre-release conduct to be offered in the now-pending case between Valassis and News America. According to Insignia, the Valassis court's "rationale applies with equal force here." Insignia, however, elected not to include a copy of the settlement agreement at issue in the 2010 *Valassis* case, which would make it challenging for the Court to determine if the ruling in question "applies with equal force here."

Defendants would have far preferred to address this matter in the reply memorandum we filed on December 2 (Doc. No. 70), but Plaintiff Insignia chose to respond to our motion with what purported to be a "cross-motion," which guaranteed them the last word in the briefing schedule. Insignia offered no arguments based on the February 2019 rulings in *Valassis* until Insignia filed its "Reply" in support of its cross-motion, where Insignia now offers arguments opposing the relief sought in the Motion for Judgment on the Pleadings, based on the February 2019 opinion in *Valassis*.

The Honorable Becky R. Thorson
United States Magistrate Judge
December 18, 2019
Page 2

While Defendants can address Insignia's new arguments at the January 14 hearing, we thought the record should include the settlement agreement and release referenced but not supplied by Insignia. Accordingly, Defendants respectfully request leave to supplement the record to include the attached settlement agreement.

Sincerely,

s/ Todd Wind

Todd Wind
Direct Dial: 612.492.7046
Email: twind@fredlaw.com

TW:clt:69007775

Enclosure

cc: All Counsel of Record (Via ECF)